

**FOR THE UNITED STATES DISTRICT COURT  
IN THE DISTRICT OF NEW MEXICO**

JACOB R. PRATT,

Plaintiff,

v.

Civ. No. 18-524 MV/KK

GERMAN FRANCO, *et al.*,

Defendants.

**ORDER ADOPTING PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER comes before the Court on United States Magistrate Judge Kirtan Khalsa's Proposed Findings and Recommended Disposition (Doc. 50), filed November 24, 2021. In the Proposed Findings and Recommended Disposition, Magistrate Judge Khalsa recommended that Defendants' Motion for Summary Judgment Based on the *Martinez* Report (Doc. 46), filed May 7, 2021, be granted in part and denied as moot in part. The parties have filed no objections to the Proposed Findings and Recommended Disposition, and the time for them to do so has expired. Failure to timely object to a magistrate judge's proposed findings and recommended disposition waives appellate review of both factual and legal issues. *United States v. One Parcel of Real Property*, 73 F.3d 1057, 1059 (10th Cir. 1996).

IT IS THEREFORE ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 50) are ADOPTED.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Based on the *Martinez* Report (Doc. 46) is GRANTED IN PART and DENIED AS MOOT IN PART as follows:

1) As to the First Amendment and RLUIPA religious discrimination claims raised in Count I of Plaintiff's Amended Complaint, summary judgment in favor of Defendants is


GRANTED and Plaintiff's religious discrimination claims against all Defendants are DISMISSED WITHOUT PREJUDICE.

2) As to the First Amendment access to information claims raised in Count II of Plaintiff's Amended Complaint, summary judgment in favor of Defendants is GRANTED and all claims in Count II against all Defendants are DISMISSED WITHOUT PREJUDICE.

3) As to the Fourteenth Amendment Due Process claims raised in Count III of Plaintiff's Amended Complaint, summary judgment in favor of Defendants is GRANTED and all claims in Count III against all Defendants are DISMISSED WITHOUT PREJUDICE.

4) The portions of Defendants' Motion seeking summary judgment on the following exhausted but unasserted claims are DENIED AS MOOT because Plaintiff has abandoned these claims by failing to assert them in the operative Amended Complaint: (1) Defendants' failure to find a religious volunteer for Plaintiff, and their policy that pork for the Yule festival and firewood for holy days may only be provided by volunteers; (2) Defendants' failure to provide a consecrated outdoor space at PNM for Plaintiff to practice his faith and rituals; and, (3) Defendants' failure to grant him a beard exception to the grooming policy for special management inmates.

IT IS SO ORDERED.

  
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THE HONORABLE MARTHA VÁZQUEZ  
UNITED STATES DISTRICT JUDGE